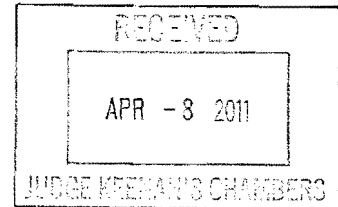


KAUFMAN & KAHN, LLP

April 8, 2011

BY HAND DELIVERY

Hon. John F. Keenan, U.S.D.J.
 U.S. District Court, Southern District of New York
 500 Pearl Street
 New York, NY 10007



MEMO ENDORSE

Re: Samad Brothers, Inc. v. Bokara Rug Co., Inc., et al.
 (S.D.N.Y., Case No. 09 Civ. 5843 (JFK / KNF))

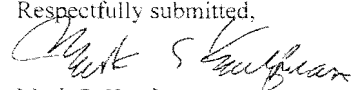
Dear Judge Keenan:

We are counsel to plaintiff Samad Brothers, Inc., and write in connection with defendants' motion to preclude the testimony and errata sheet of Vikram Kapoor. In their reply memorandum of law dated April 7, 2011, defendants raise for the first time an issue not raised in their motion. They now allege that the content, rather than merely the notarization, of Mr. Kapoor's errata sheet is defective.

A court should decline to consider an argument raised for the first time in a reply brief. See, e.g., ABN AMRO Verzekeringen BV v. Geologistics Ams., Inc., 485 F.3d 85, 97, n. 12 (2d Cir. 2007); Rowlev v. City of N.Y., No. 00 Civ. 1793(DAB), 2005 WL 2429514 (S.D.N.Y., Sept. 30, 2005). Samad respectfully requests that either the court ignore any and all parts of defendants' reply which purport to address the content of the errata sheet, or provide Samad with leave to file a sur-reply. Samad would demonstrate, if given the opportunity, that (a) in virtually every instance, defendants failed to request at Mr. Kapoor's deposition that he produce copies of any records to which he referred after the deposition; (b) in the instance when defendants requested copies of such documents (see Zibas 3/4/11 Declar., Ex. 1 at 319:21-320:9), Mr. Kapoor, through his attorney, wrote that he would produce any responsive documents, if they exist; and (c) defendants' counsel wrote to Mr. Kapoor's counsel, saying that she would provide a list of documents that Mr. Kapoor should produce in connection with his deposition, but defendants' counsel failed to provide any such list. Thus, defendants are estopped from arguing that Mr. Kapoor's alleged failure to produce records after the deposition renders his errata sheet defective.

Thank you for your consideration of this matter.

Respectfully submitted,


 Mark S. Kaufman

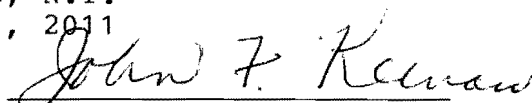
cc. (by email): Jura C. Zibas, Esq.

747 THIRD AVENUE, 32ND FLOOR • NEW YORK, NEW YORK 10017
 PHONE: 212-293-5556 • FAX: 212-355-5009 • KAUFMAN@KAUFMANKAHN.COM

Plaintiff's request for leave to
 file a sur-reply is DENIED.

SO ORDERED.

Dated: New York, N.Y.
 April 20, 2011


 John F. Keenan
 U.S.D.J.
